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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/359,265	07/22/1999	JAY S. WALKER	WD2-99-055	2597

22927 7590 02/20/2004

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EXAMINER

RIMELL, SAMUEL G

ART UNIT	PAPER NUMBER
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2175

23

DATE MAILED: 02/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/359,265

Applicant(s)

WALKER ET AL.

Examiner

Sam Rimell

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 3,4,56-69,72-86,89,95 and 96 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 95 and 96 is/are allowed.
- 6) ☒ Claim(s) 3,4,56-69,72-86 and 89 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.


SAM RIMELL
PRIMARY EXAMINER

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____ |

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The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 3, 4, 56-69, 72-86 and 89 are rejected under 35 U.S.C. 102(e) as being anticipated by Walker et al. (U.S. Patent 6,134,534).

Claim 3: FIGS. 9A and 9B of Walker et al. illustrate a method in which first and second customers provide flexibility ranges. Each customer is defined in each row of the database and the flexibility range for that customer are each of the referenced variables 945, 950, 955, 960, 965, 970, 975, 980, 985, 990 shown in FIGS. 9A-9B. Col. 7, lines 19-52 refer to an additional flexibility range, namely, the customer's acceptance rate of offered flights.

FIG. 15 illustrates that travel products in the form of airline tickets that can be matched to different customer flexibilities. FIG. 15 illustrates the sale of several hundred tickets, indicating that at least two customer flexibility ranges where matched by specific airline tickets.

In accordance with col. 7, lines 19-52, a customer may be charged first or second prices. One price is the charging of a penalty for failing to complete the payment of accepted ticket offers, while the second price is the charging of the normal ticket price. Both are based upon the customer's acceptance rate, which is one of the flexibility ranges.

The acceptance rate is scored by rating the customer (col. 7, line 21). The penalty amount can be different from the ticket price. Thus, a difference exists between the first price and the second price. This difference is readable as the percent discount. For example, if the ticket is \$100 and the penalty is \$50, the difference is 50%, which is readable as the claimed "discount".

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Claim 4: See remarks for claim 3.

Claim 56: The flexibility ranges specified in FIGS. 9A, 9B, and col. 7, lines 19-52 all pertain to a travel product.

Claim 57: The flexibility ranges specified in FIGS. 9A, 9B and col. 7, lines 19-52 are readable as a set of tolerances.

Claim 58: The flexibility ranges in FIGS. 9A and 9B can be specified in terms of minimum and maximum values. For example, the dates of departure have minimum and maximum values.

Claim 59: FIG. 9B illustrates flexibility ranges which are flexible times, such as variable dates of departure and variable dates of return in columns 965 and 970.

Claim 60: The specified dates of departure and dates of return in FIG. 9B are acceptable dates.

Claim 61: FIG. 9A illustrates a desired level of service, such as the non-stop connection restrictions in column 960.

Claim 62: FIG. 9A illustrates flexibility ranges which are location assignments, such the origination and destination cities specified in columns 950 and 955.

Claim 63: The first row of FIG. 9B indicates the customer acceptance of an offered travel product that meets all of the customer's specified flexibilities. The price in column 980 is the maximum price the customer is willing to pay (col. 15, lines 29-33).

Claim 64: Any of the information in FIG. 9A and 9B are travel product preferences. The travel product (airline ticket) can be returned with specifications that differ from the customer preferences. For example, the airline may offer one stop connections (row 1004 in FIG. 10A)

when a customer wants non-stop connection or immediate departure requirements (Column 1125 in FIG. 11). when a customer wants to depart on specific date.

Claim 65: The system of Walker et al. determines airline flights that most closely meet the customer specifications. The flights selected by the system are returned randomly, in the sense that they are not returned in some specified order, such as alphabetical order or ordered in terms of the lowest price to highest price.

Claim 66: The flights may be selected by the system based on revenue management information (columns 1560 and 1565 in FIG. 15 or column 1096 in FIG. 10C).

Claim 67: In the system of Walker et al., a customer is initially associated with a conditional purchase offer, which is readable as the claimed “voucher” provided to the customer. Any record of data is considered to be readable as a “voucher”, lacking any further details on what the voucher contains. Another example of a voucher taught in Walker et al. are customer notifications regarding the CPO (col. 3, line 30).

Claim 68: FIGS. 9A and 9B show that the details associated with the voucher are recorded in a database.

Claim 69: Col. 7, lines 19-52 specify that one of the prices that can be charged to a customer is a penalty fee for failing to accept an offer for ticket that the customer has requested.

Claim 72: See remarks for claim 3.

Claim 73: See remarks for claim 56.

Claim 74: See remarks for claim 57.

Claim 75: See remarks for claim 58.

Claim 76: See remarks for claim 59.

Claim 77: See remarks for claim 60.

Claim 78: See remarks for claim 61.

Claim 79: See remarks for claim 62.

Claim 80: See remarks for claim 63.

Claim 81: See remarks for claim 64.

Claim 82: See remarks for claim 65.

Claim 83: See remarks for claim 66.

Claim 84: See remarks for claim 67.

Claim 85: See remarks for claim 68.

Claim 86: See remarks for claim 69.

Claim 89: See remarks for claim 3.

Claims 95-96 are allowable over the prior art of record.

Remarks

Applicant's arguments have been considered.

Applicant argues with respect to Walker et al. that the fee or penalty charged to the customer for failing to complete a ticket sale is not readable as one of the "prices for sale". This argument has been fully considered, but Examiner maintains that the Examiner's interpretation is valid.

In considering a proper interpretation of the term "price for sale" Examiner notes that the term is not explicitly defined in the specification. While the specification does make various

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references to “prices”, the exact term “price for sale” is never explicitly recited or defined. As a result, the Examiner does not consider the specification as providing any insight on how this term should be interpreted. The term is thus left open to a broadest reasonable interpretation (MPEP 904.01—“The breadth of the claims in the application should always be carefully noted; that is, the examiner should be fully aware of what the claims *do not* call for, as well as what they do require.”)

A second and equally important consideration is the fact the “sale” does not necessarily have to be a transfer of money. In the context of the prior art reference Walker et al. (‘534), a sale can be an offer made by a potential buyer and an acceptance by a potential airline. The penalty in Walker et al. is a fee that is charged subsequent to the offer and acceptance. In other words, the fee is price charged in relation to transaction that is definable as a sale.

Applicant also argues that the CPO described in the prior art Walker et al. reference does not constitute a voucher. Examiner maintains that any record of information, including a CPO, is a voucher. The prior art reference to Walker et al. also provides additional examples of vouchers, such as notifications to the customer regarding the CPO (see remarks for claim 67).

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

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CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication should be directed to Sam Rimell at telephone number (703) 306-5626.

A handwritten signature in black ink, appearing to read 'S. Rimell', is positioned above the printed name.

Sam Rimell
Primary Examiner
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